

## **IC 35-36-8**

### **Chapter 8. Omnibus Date, Pretrial Hearing, and Pretrial Conference**

#### **IC 35-36-8-1**

##### **Omnibus date; setting; purpose; notice; time limits**

Sec. 1. (a) This subsection applies to persons charged with a felony. A date, known as the omnibus date:

- (1) must be set by the judicial officer at the initial hearing; and
- (2) must be no earlier than forty-five (45) days and no later than seventy-five (75) days after the completion of the initial hearing, unless the prosecuting attorney and the defendant agree to a different date.

(b) The purpose of the omnibus date is to establish a point in time from which various deadlines under this article are established. The court shall direct the clerk to notify the defendant and all counsel of record of the omnibus date.

(c) The omnibus date for persons charged only with one (1) or more misdemeanors:

- (1) must be set by the judicial officer at the completion of the initial hearing;
- (2) must be no earlier than thirty (30) days (unless the defendant and the prosecuting attorney agree to an earlier date), and no later than sixty-five (65) days, after the initial hearing; and
- (3) is the trial date.

(d) Once the omnibus date is set, it remains the omnibus date for the case until final disposition, unless:

- (1) the defendant requests a trial within time limits established by the Indiana rules of criminal procedure for early trial motions;
- (2) subsequent counsel enters an appearance after the omnibus date and previous counsel withdrew or was removed due to:
  - (A) a conflict of interest; or
  - (B) a manifest necessity required that counsel withdraw from the case;
- (3) the state has not complied with an order to compel discovery; or
- (4) the prosecuting attorney and the defendant agree to continue the omnibus date.

*As added by Acts 1981, P.L.298, SEC.5. Amended by Acts 1982, P.L.204, SEC.31; P.L.320-1983, SEC.22; P.L.314-1985, SEC.1.*

#### **IC 35-36-8-2**

##### **Withdrawal by counsel; grounds; time limit; restriction**

Sec. 2. (a) Counsel for a defendant charged with a felony or misdemeanor may withdraw from the case for any reason, including failure of the defendant to fulfill an obligation with respect to counsel's fee, at any time up to thirty (30) days before the omnibus date.

(b) However, the court shall allow counsel for the defendant to

withdraw from the case at any time within thirty (30) days of, and at any time after, the omnibus date if there is a showing that:

- (1) counsel for the defendant has a conflict of interest in continued representation of the defendant;
- (2) other counsel has been retained or assigned to defend the case, substitution of new counsel would not cause any delay in the proceedings, and the defendant consents to or requests substitution of the new counsel;
- (3) the attorney-client relationship has deteriorated to a point such that counsel cannot render effective assistance to the defendant;
- (4) the defendant insists upon self representation and the defendant understands that the withdrawal of counsel will not be permitted to delay the proceedings; or
- (5) there is a manifest necessity requiring that counsel withdraw from the case.

*As added by Acts 1981, P.L.298, SEC.5. Amended by P.L.40-1990, SEC.56.*

### **IC 35-36-8-3**

#### **Pretrial hearing and conference; time; purposes; memorandum of matters agreed upon; use of admission**

Sec. 3. (a) A pretrial hearing and pretrial conference, if one is necessary, may be held on the omnibus date or any other date that the court designates prior to the commencement of trial. The purpose of the pretrial hearing is to:

- (1) consolidate hearings on pretrial motions and other requests to the maximum extent practicable;
- (2) rule on the motions and requests and ascertain whether the case will be disposed of by guilty plea, jury trial, or bench trial; and
- (3) make any other orders appropriate under the circumstances to expedite the proceedings.

(b) At the time of the pretrial hearing as provided under this section, or at any other time after the filing of the indictment or information and before the commencement of trial, the court, upon motion of any party or upon its own motion, may order conferences to consider any matters that will promote a fair and expeditious trial. The purpose of such a conference shall be to consider any matters related to the disposition of the proceedings, including the simplification of the issues to be tried and the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof.

(c) At the conclusion of the conference the court shall prepare and file a memorandum of the matters agreed upon. Any admission made by the defendant or his attorney at the conference may not be used against the defendant unless the admission is reduced to writing and signed by the defendant and his attorney.

*As added by Acts 1981, P.L.298, SEC.5.*

**IC 35-36-8-4**

Repealed

*(Repealed by P.L.320-1983, SEC.25.)*